

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-3939

United States of America,

Appellee,

v.

Francisco Raygoza-Aguayo,

Appellant.

*

*

*

*

*

*

*

*

*

Appeal from the United States
District Court for the
Southern District of Iowa.

[UNPUBLISHED]

Submitted: April 24, 2002

Filed: April 26, 2002

Before LOKEN, BEAM, and RILEY, Circuit Judges.

PER CURIAM.

Francisco Raygoza-Aguayo pleaded guilty to illegal reentry following deportation, in violation of 8 U.S.C. § 1326(a) and (b), and was sentenced to 46 months in prison and 2 years supervised release. On appeal, he challenges the district court's¹ failure to grant a downward departure based on his status as an alien subject to removal.

¹The HONORABLE ROBERT W. PRATT, United States District Judge for the Southern District of Iowa.

As Raygoza acknowledges, his argument is foreclosed by United States v. Cardoso-Rodriguez, 241 F.3d 613, 614 (8th Cir. 2001) (deportable aliens' ineligibility for Bureau of Prisons benefits does not provide basis for downward departure in illegal-reentry cases).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.